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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,452	12/09/2003	Shane Taghavi	2504-018	4421
22208	7590	08/17/2004	EXAMINER	
ROBERTS ABOKHAIR & MARDULA SUITE 1000 11800 SUNRISE VALLEY DRIVE RESTON, VA 20191			NAKARANI, DHIRAJLAL S	
			ART UNIT	PAPER NUMBER
			1773	

DATE MAILED: 08/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/731,452	TAGHAVI, SHANE
Examiner	Art Unit	
D. S. Nakarani	1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 09 December 2003.

2a)  This action is **FINAL**.                                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-26 is/are pending in the application.  
4a) Of the above claim(s) 9-24 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-8, 25 and 26 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) 1-26 are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 09 December 2003 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/16/04.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

**DETAILED ACTION**

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-8, 25, and 26 are, drawn to a five layer shrink film having a polystyrenic core and a polyethylenic outer layers, classified in class 428, subclass 213.
  - II. Claims 9-17 are, drawn to a method, classified in class 264, subclass 173.11.
  - III. Claims 18-24 are, drawn to a five-layer shrink film having a polyethylenic core and polystyrenic outer layers, classified in class 428, subclass 517.

The inventions are distinct, each from the other because:

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by a materially different process such as laminating preformed polyethylenic film to both side of a preformed polystyrenic film (i.e. layer) using claimed polystyrene compatibilizing layer using heat and pressure followed by a biaxial orientation.
3. Invention I and III are independent distinct from each other because the invention I requires a polystyrenic core and polyethylenic outer layers while the invention III requires polyethylenic core layer and polystyrenic outer layers. That is the layered structure of the invention I is opposite to the layered structure of the invention III.

4. Invention II and III are independent and distinct from each other because the invention II is directed to a method which does not result in the article of the invention III.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

6. During a telephone conversation with Mr. Timothy W. Graves on July 01, 2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-8, 25 and 26. Affirmation of this election must be made by applicant in replying to this Office action. Claims 9-24 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected inventions.

7. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Candida et al (U.S. Patent 4,897,274).

Candida et al disclose a five layer film comprising outer layers of very low density linear polyethylene having 10 to 20 wt % octene (claim 2, component (a(i)), intermediate layers of modified EVA or resins used for skin layer or outer layers (col. 2 lines 50-60) and core layer of butadiene/styrene copolymer (claim 2 component (b)). Candida et al also disclose a multilayer can be a heat shrinkable film (col. 2, line 64-68).

11. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Childress (U.S. Patent 6,479,138).

Childress discloses a five layer low shrink tension film comprising core layer of ethylene/styrene copolymer having styrene content between 61 and 85 wt% (col. 7 lines 20-27), outer layers of ethylene/alpha olefin copolymer, such as ethylene/octene copolymer having octene content of 9 wt % (col. 9, A7; col. 10, A20 etc) and intermediate layers of adhesive such

as ethylene/vinyl acetate copolymers, a blend of very low density polyethylene and ethylene/vinyl acetate copolymer etc (col. 7, line 65 to col. 8, line 8).

12. Claims 1-8, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Childress (U.S. Patent 6,479,138).

Childress, which has been discussed above in paragraph 11, also discloses proportion of core layer, outer layers and intermediate layers (col. 8, lines 9-15). Childress fail to disclose claimed proportion of outer layers and claimed composition if intermediate layers. However given the teaching of Childress, a person of ordinary skill in the art at the time of this invention made would have found it obvious to optimize physical properties of a multilayer film by varying composition and proportion of individual layer for the given applications.

13. Receipt of Information Disclosure Statement filed April 16, 2004 is acknowledged and has been made of record.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. S. Nakarani whose telephone number is (571) 272-1512. The examiner can normally be reached on Tuesday-Friday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on (571) 272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D. S. Nakarani/af  
July 4, 2004

  
D. S. NAKARANI  
PRIMARY EXAMINER